

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #7	CCRB Case #: 202002500	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/28/2020 2:00 AM	Location of Incident: East 170th Street and 3rd Avenue	Precinct: 42	18 Mo. SOL 9/28/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 03/28/2020 2:06 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/02/2020 11:33 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Merita Hoxha	11713	955988	042 DET
2. Officers			
3. POM Emmanuel Guerrero	01709	951795	042 PCT
4. POM Dennis Vargas	07471	957245	PBBX SU
5. POM Lewellyn Alvarez	20035	949996	042 PCT
6. POM Anthony Alvino	04731	961613	INT CIS
7. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Joseph Duerr	01294	953830	042 PCT
2. POM Imran Alli	10940	955709	042 PCT
3. POM Marquise Walcott	03339	961435	042 PCT
4. SGT Victor Velez	4643	943924	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
B. Officers	Abuse: Officers stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Dennis Vargas	Abuse: Police Officer Dennis Vargas stopped § 87(2)(b)	
D.POM Dennis Vargas	Abuse: Police Officer Dennis Vargas stopped § 87(2)(b)	
E.POM Anthony Alvino	Abuse: Police Officer Anthony Alvino stopped § 87(2)(b)	
F.POM Anthony Alvino	Abuse: Police Officer Anthony Alvino stopped § 87(2)(b)	
G.POF Merita Hoxha	Abuse: Police Officer Merita Hoxha stopped § 87(2)(b)	
H.POF Merita Hoxha	Abuse: Police Officer Merita Hoxha stopped § 87(2)(b)	
I.POM Emmanuel Guerrero	Abuse: Police Officer Emmanuel Guerrero stopped § 87(2)(b)	
J.POM Emmanuel Guerrero	Abuse: Police Officer Emmanuel Guerrero stopped § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
K.POM Dennis Vargas	Abuse: Police Officer Dennis Vargas frisked § 87(2)(b)	
L.POM Dennis Vargas	Abuse: Police Officer Dennis Vargas searched § 87(2)(b)	
M.POF Merita Hoxha	Abuse: Police Officer Merita Hoxha threatened § 87(2)(b) with the use of force.	
N.POM Anthony Alvino	Abuse: Police Officer Anthony Alvino threatened § 87(2)(b) with the use of force.	
O.POM Emmanuel Guerrero	Abuse: Police Officer Emmanuel Guerrero searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
P.POF Merita Hoxha	Force: Police Officer Merita Hoxha used physical force against § 87(2)(b)	
Q.POF Merita Hoxha	Abuse: Police Officer Merita Hoxha refused to provide her shield number to § 87(2)(b)	
R.POM Emmanuel Guerrero	Abuse: Police Officer Emmanuel Guerrero refused to provide his name to § 87(2)(b)	
S.POM Emmanuel Guerrero	Abuse: Police Officer Emmanuel Guerrero refused to provide his shield number to § 87(2)(b)	
T.POF Merita Hoxha	Abuse: Police Officer Merita Hoxha frisked § 87(2)(b)	
U.POF Merita Hoxha	Abuse: Police Officer Merita Hoxha searched § 87(2)(b)	
V.POM Dennis Vargas	Abuse: Police Officer Dennis Vargas searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
W.POM Lewellyn Alvarez	Abuse: Police Officer Lewellyn Alvarez searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
X. Officers	Abuse: Officers threatened to arrest § 87(2)(b)	
Y.POF Merita Hoxha	Abuse: Police Officer Merita Hoxha failed to provide § 87(2)(b) with a business card.	
Z.POF Merita Hoxha	Abuse: Police Officer Merita Hoxha failed to provide § 87(2)(b) with a business card.	
2A.POM Emmanuel Guerrero	Abuse: Police Officer Emmanuel Guerrero failed to provide § 87(2)(b) with a business card.	
2B.POM Emmanuel Guerrero	Abuse: Police Officer Emmanuel Guerrero failed to provide § 87(2)(b) with a business card.	
2C.POM Dennis Vargas	Abuse: Police Officer Dennis Vargas failed to provide § 87(2)(b) with a business card.	
2D.POM Dennis Vargas	Abuse: Police Officer Dennis Vargas failed to provide § 87(2)(b) with a business card.	
2E.POM Anthony Alvino	Abuse: Police Officer Anthony Alvino failed to provide § 87(2)(b) with a business card.	
2F.POM Anthony Alvino	Abuse: Police Officer Anthony Alvino failed to provide § 87(2)(b) with a business card.	
2G.POM Dennis Vargas	Abuse: Police Officer Dennis Vargas refused to provide his name to § 87(2)(b)	
2H.POM Dennis Vargas	Abuse: Police Officer Dennis Vargas refused to provide his shield number to § 87(2)(b)	
2I.POM Emmanuel Guerrero	Abuse: Police Officer Emmanuel Guerrero refused to provide his name to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
2J.POM Emmanuel Guerrero	Abuse: Police Officer Emmanuel Guerrero refused to provide his shield number to § 87(2)(b)	
2K.POF Merita Hoxha	Abuse: Police Officer Merita Hoxha refused to provide her name to § 87(2)(b)	
2L.POF Merita Hoxha	Abuse: Police Officer Merita Hoxha refused to provide her shield number to § 87(2)(b)	

## Case Summary

§ 87(2)(b) filed this complaint with IAB on March 28, 2020 on behalf of herself and her husband, § 87(2)(b). It was received by the CCRB on April 2, 2020 via IAB log #20-9487.

On March 28, 2020, at approximately 2:00 a.m., § 87(2)(b) and § 87(2)(b) were in their 2003 white Cadillac, which § 87(2)(b) was driving, near East 170<sup>th</sup> Street and Third Avenue in the Bronx. An unmarked police vehicle allegedly passed them and made a U-turn, after which a male voice allegedly said over the loudspeaker, “Pull the fuck over.” (**Allegation A: Abuse of Authority- Vehicle Stop, and Allegation B: Discourtesy-Word,** § 87(2)(g)). § 87(2)(b) allegedly pulled the car over and they waited for a short period of time before the police vehicle drove away without the officers taking any action. Shortly after, § 87(2)(b) turned onto 170<sup>th</sup> Street and parked next to a fire hydrant, and he and § 87(2)(b) began to have a conversation. Shortly after, Police Officers Anthony Alvino, Dennis Vargas, Merita Hoxha, and Emmanuel Guerrero, who at the time were all assigned to the 42<sup>nd</sup> Precinct Anti-Crime team, approached § 87(2)(b) and § 87(2)(b) in their parked vehicle (**Allegations C-J: Abuse of Authority- Stop,** § 87(2)(g)). Police Officers Hoxha and Guerrero approached § 87(2)(b) s side (passenger) and Police Officers Alvino and Vargas approached § 87(2)(b) s side (driver). Police Officer Vargas frisked and searched § 87(2)(b) after which he told him to go to the back of the vehicle (**Allegations K and L: Abuse of Authority- Frisk and Search of Person,** § 87(2)(g)). After arguing with § 87(2)(b) for a few minutes about stepping out of the vehicle, Police Officer Hoxha allegedly said, “you need to step out of the car before you make it worse for yourself” (**Allegation M: Abuse of Authority- Threat of Force,** § 87(2)(g)). Waiting at the back of the vehicle while § 87(2)(b) argued with Police Officer Hoxha, Police Officer Alvino said to § 87(2)(b) “tell her she’s gonna have to get out, or she’ll get ripped out, there’s no reason for that” (**Allegation N: Abuse of Authority- Threat of Force,** § 87(2)(g)).

Police Officer Guerrero entered the car through the open driver door and unbuckled § 87(2)(b) s seatbelt (**Allegation O: Abuse of Authority- Vehicle Search,** § 87(2)(g)). Police Officer Hoxha then grabbed § 87(2)(b) s arm and pulled her out of the vehicle, allegedly causing § 87(2)(b) to fall to the ground (**Allegation P: Physical Force,** § 87(2)(g)). § 87(2)(b) allegedly asked Police Officer Hoxha for her shield number, and Police Officer Guerrero for his name and shield number as she exited her vehicle, and they allegedly did not respond (**Allegations Q-S: Abuse of Authority- Refusal to Provide Name and Shield Number,** § 87(2)(g)). Police Officer Hoxha then frisked and searched § 87(2)(b) after which she sent her to the back of the vehicle (**Allegations T and U: Abuse of Authority- Frisk and Search of Person,** § 87(2)(g)). Police Officers Guerrero and Vargas subsequently searched the entire vehicle (**subsumed in Allegation O, and Allegation V: Abuse of Authority- Vehicle Search,** § 87(2)(g)). Police Officers Lewellyn Alvarez and Imran Alli of the 42<sup>nd</sup> Precinct then arrived in a second vehicle and Police Officer Alvarez searched § 87(2)(b) s vehicle, including the front hood (**Allegation W: Abuse of Authority- Vehicle Search,** § 87(2)(g)). Officers allegedly told § 87(2)(b) he could get arrested (**Allegation X: Abuse of Authority- Threat of Arrest,** § 87(2)(g)). No officer provided § 87(2)(b) or § 87(2)(b) with a business card (**Allegations Y-AF: Abuse of Authority- RTKA,** § 87(2)(g)). § 87(2)(b) allegedly said to Police Officers Vargas, Guerrero, and Hoxha, “So no one’s gonna give me their names and badge numbers?,” and they allegedly all walked away without responding (**Allegations AG-AL: Abuse of Authority- Refusal to Provide Name and Shield Number,** § 87(2)(g)). Neither § 87(2)(b) nor § 87(2)(b) was arrested or issued a summons for this incident.

BWC footage from Police Officers Alvino (Board Review #01), Vargas (Board Review #02), Hoxha (Board Review #03), Guerrero (Board Review #04), Alvarez (Board Review #05), and Alli (Board Review #06) were obtained for this incident. They are attached in IAs #108-#113 and

summarized in IA #115 (Board Review #07).

### **Findings and Recommendations**

**Allegation (A) Discourtesy: An officer spoke discourteously to § 87(2)(b)**

**Allegation (B) Abuse of Authority: Officers stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(b) was interviewed by the CCRB on April 13, 2020 (Board Review #08). § 87(2)(b) was interviewed by the CCRB on April 21, 2020 (Board Review #09). Police Officer Vargas was interviewed by the CCRB on November 13, 2020. Police Officer Hoxha was interviewed by the CCRB on January 22, 2021. Police Officers Alvino and Guerrero were interviewed on April 2, 2021.

§ 87(2)(b) and § 87(2)(b) testified that before parking at the hydrant on East 170<sup>th</sup> Street, § 87(2)(b) was driving on Third Avenue when a dark unmarked vehicle driving the opposite direction made a U-turn and pulled up behind them. § 87(2)(b) testified that an officer went over the loudspeaker and told them to pull over, and § 87(2)(b) said a male voice told them to, “Pull the fuck over.” § 87(2)(b) pulled the car over and after about a minute, the car drove away without taking any police action. Neither was able to see how many officers were in the car or what they looked like. Shortly after, § 87(2)(b) turned onto East 170<sup>th</sup> Street and parked next to a hydrant. After a few minutes, Police Officers Vargas, Hoxha, Guerrero, and Alvino approached the vehicle.

Police Officers Guerrero and Vargas denied that anyone in their vehicle pulled over § 87(2)(b)'s vehicle previously, and denied saying, “Pull the fuck over.” Police Officers Hoxha and Alvino did not remember anyone in their vehicle taking this action. No officer was aware of or remembered another unmarked police vehicle pulling over § 87(2)(b)'s vehicle before they approached his.

At 05:25 into Police Officer Hoxha's BWC footage, § 87(2)(b) and § 87(2)(b) tell the officers they had just pulled them over nearby (Board Review #03). On the video, multiple officers deny this allegation. Police Officer Vargas stated during his interview that watching this portion of the incident in his BWC footage (from 03:24-03:50) did not refresh his recollection of § 87(2)(b) saying they had been stopped earlier or of them taking that action (Board Review #02).

§ 87(2)(g)

**Allegation (C) Abuse of Authority: Police Officer Dennis Vargas stopped § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Dennis Vargas stopped § 87(2)(b)**

**Allegation (E) Abuse of Authority: Police Officer Anthony Alvino stopped § 87(2)(b)**

**Allegation (F) Abuse of Authority: Police Officer Anthony Alvino stopped § 87(2)(b)**

**Allegation (G) Abuse of Authority: Police Officer Merita Hoxha stopped § 87(2)(b)**

**Allegation (H) Abuse of Authority: Police Officer Merita Hoxha stopped § 87(2)(b)**

**Allegation (I) Abuse of Authority: Police Officer Emmanuel Guerrero stopped § 87(2)(b)**

**Allegation (J) Abuse of Authority: Police Officer Emmanuel Guerrero stopped § 87(2)(b)**

It is undisputed that the four officers approached § 87(2)(b)'s vehicle when it was parked at a hydrant, with § 87(2)(b) in the driver seat and § 87(2)(b) in the passenger seat. Police Officers Hoxha and Guerrero approached § 87(2)(b)'s side and Police Officers Alvino and Vargas approached § 87(2)(b)'s side.

Police Officer Vargas stated that he witnessed § 87(2)(b) drive up to the hydrant and park, but the other officers interviewed could not remember if they saw the vehicle drive up or merely saw it parked. Police Officers Alvino, Hoxha, and Guerrero all could not remember or did not know who first noticed § 87(2)(b)'s vehicle parked at the hydrant, nor who decided to approach them. Police Officer Vargas, who was driving the unmarked vehicle, testified that he observed § 87(2)(b) turn onto East 170<sup>th</sup> Street and stop on the northeast corner next to a fire hydrant about three car lengths away from the police vehicle. He could not remember how long § 87(2)(b) was parked at the hydrant and could not remember any other reasons, other than that § 87(2)(b) and § 87(2)(b) were stopped at a fire hydrant, that he decided to approach the vehicle. Police Officer Hoxha stated that she and her fellow officers approached the vehicle to make sure they were okay, since she believed their parking at a hydrant might indicate an emergency. She also stated that it was procedure to instruct civilians parked at hydrants to move their car. Police Officer Guerrero similarly stated that his intention was to see if anyone was in the car, and Police Officer Alvino stated that he intended to tell any occupant in the car to move.

*People v. Thomas*, 19 A.D.3d 32 states that, when a person is found sitting at the wheel of a car blocking a fire hydrant, a police officer making the observation is entitled to approach to ask the person to move the car (Board Review #10). In addition, the officer is entitled to ask the person in the car “basic, nonthreatening questions” for the purpose of determining whether the car’s presence beside the hydrant is lawful – which it is if the person at the wheel is a licensed driver – or, alternatively, unlawful.

§ 87(2)(g)

**Allegation (K) Abuse of Authority: Police Officer Dennis Vargas frisked § 87(2)(b)**  
**Allegation (L) Abuse of Authority: Police Officer Dennis Vargas searched § 87(2)(b)**  
**Allegation (N) Abuse of Authority: Police Officer Anthony Alvino threatened § 87(2)(b) with the use of force.**  
**Allegation (O) Abuse of Authority: Police Officer Emmanuel Guerrero searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**  
**Allegation (P) Force: Police Officer Merita Hoxha used physical force against § 87(2)(b)**  
**Allegation (V) Abuse of Authority: Police Officer Merita Hoxha frisked § 87(2)(b)**  
**Allegation (W) Abuse of Authority: Police Officer Merita Hoxha searched § 87(2)(b)**  
**Allegation (X) Abuse of Authority: Police Officer Dennis Vargas searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**  
**Allegation (Y) Abuse of Authority: Police Officer Lewellyn Alvarez searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(b) testified that he smoked marijuana every day, and that he had smoked marijuana with his friend approximately three hours before the incident, but that there was no marijuana in the car or on his person.

All officers interviewed testified that they smelled an odor of marijuana upon approaching § 87(2)(b).

§ 87(2)(b)'s vehicle.

§ 87(2)(b) also alleged that to get her out of the car, Police Officer Hoxha grabbed § 87(2)(b)'s lower right forearm, wrapped her right forearm around § 87(2)(b)'s wrist, and grabbed § 87(2)(b)'s collar with her right hand. Police Officer Hoxha then pulled § 87(2)(b) out of the car, causing her to nearly fall to the ground with just her right leg and right arm out of the car.

The following additional details were captured completely on BWC. Police Officers Vargas and Alvino asked § 87(2)(b) to exit the car, and Police Officers Guerrero and Hoxha asked § 87(2)(b) to exit. § 87(2)(b) exited quickly, and Police Officer Vargas frisked and searched him, then directed him to the back of the car. Police Officer Hoxha then asked § 87(2)(b) to exit the vehicle multiple times, after which § 87(2)(b) refused and soon called 911 to complain about the officers stopping them. After she argued for a few minutes with Police Officers Hoxha and Guerrero, Police Officer Alvino said to § 87(2)(b) at the back of the vehicle, "tell her she's gonna have to get out, or she'll get ripped out, there's no reason for that," as seen at 2:10 into Police Officer Alvino's BWC video (Board Review #01). After § 87(2)(b) argued with Police Officer Hoxha for about two minutes without exiting, Police Officer Guerrero entered the vehicle through the open driver window and unbuckled § 87(2)(b)'s seatbelt. Then, as seen in the first 10 seconds of Police Officer Alli's BWC footage, Police Officer Hoxha guided § 87(2)(b) out of the passenger seat by holding onto her arm (Board Review #06). She then leaned § 87(2)(b)'s back on the side of the car while she frisked and searched her. Police Officers Guerrero and Vargas, and then Police Officer Alvarez, who arrived in a second vehicle, searched the entire cabin and front hood of the vehicle. Officers directed § 87(2)(b) and § 87(2)(b) to stand on the side of the car while Police Officers Guerrero and Vargas briefly looked inside the trunk, after which § 87(2)(b) and § 87(2)(b) were told they could enter their car.

Police Officer Hoxha testified that she merely placed her hand on § 87(2)(b)'s shoulder while she asked her to step out of the vehicle. Police Officer Guerrero did not remember how § 87(2)(b) was removed from the vehicle and neither he nor Police Officer Alvino remembered seeing Police Officer Hoxha pulling her out. Similarly, Police Officer Vargas was unaware of the officers' interaction with § 87(2)(b). Police Officer Alvino did not remember why he said, "tell her she's gotta get out of the car, or she's gonna get ripped out," but assumed it was because § 87(2)(b) was being noncompliant in getting out of the vehicle.

§ 87(2)(g)

People v. Chestnut, 43 A.D.2d 260 [1974] states that officers have probable cause to search a vehicle and its occupants if they smell an odor of marijuana (Board Review #11). Patrol Guide Procedure 221-01 allows officers to use a reasonable amount of force to gain compliance from a subject (Board Review #12). Officers must consider several factors to determine a reasonable level of force, including the actions taken by the subject, the duration of the action, and whether the subject is actively resisting custody.

§ 87(2)(g)

**Allegation (M) Abuse of Authority: Police Officer Merita Hoxha threatened § 87(2)(b) with the use of force.**

**Allegation (Q) Abuse of Authority: Police Officer Merita Hoxha refused to provide her shield number to § 87(2)(b)**

**Allegation (R) Abuse of Authority: Police Officer Emmanuel Guerrero refused to provide his name to § 87(2)(b)**

**Allegation (S) Abuse of Authority: Police Officer Emmanuel Guerrero refused to provide his shield number to § 87(2)(b)**

**Allegation (X) Abuse of Authority: Officers threatened to arrest § 87(2)(b)**

**Allegation (AG) Abuse of Authority: Police Officer Dennis Vargas refused to provide his name to § 87(2)(b)**

**Allegation (AH) Abuse of Authority: Police Officer Dennis Vargas refused to provide his shield number to § 87(2)(b)**

**Allegation (AI) Abuse of Authority: Police Officer Emmanuel Guerrero refused to provide his name to § 87(2)(b)**

**Allegation (AJ) Abuse of Authority: Police Officer Emmanuel Guerrero refused to provide his shield number to § 87(2)(b)**

**Allegation (AK) Abuse of Authority: Police Officer Merita Hoxha refused to provide her name to § 87(2)(b)**

**Allegation (AL) Abuse of Authority: Police Officer Merita Hoxha refused to provide her shield number to § 87(2)(b)**

§ 87(2)(b) testified to several details regarding her argument with Police Officer Hoxha. First, she alleged that Police Officer Hoxha said, “you need to step out of the car before you make it worse for yourself.” § 87(2)(b) interpreted this statement to mean that Police Officer Hoxha was threatening to drag her out of her car. § 87(2)(b) likewise testified that several officers stated that he and § 87(2)(b) were making it harder on themselves because they were not cooperating, which he interpreted to mean that the officers were going to make sure he or § 87(2)(b) was arrested for something. No officer ever explicitly stated they would arrest § 87(2)(b).

None of the BWC videos show Police Officer Hoxha saying, “You need to step out of the car before you make it worse for yourself,” or a similar statement, while trying to get § 87(2)(b) out of the vehicle. Police Officer Hoxha denied making this statement to § 87(2)(b). Police Officers Guerrero and Alvino did not remember hearing an officer make this specific statement, nor did either of them hear or remember hearing an officer threaten to arrest § 87(2)(b). Police Officer Vargas did not remember hearing any officer say that § 87(2)(b) or § 87(2)(b) could be arrested or summonsed.

§ 87(2)(b) also alleged that as she exited her vehicle, she asked Police Officers Hoxha and Guerrero for their names and shield numbers, and Police Officer Hoxha said “Hox.” Additionally, § 87(2)(b) alleged that at the end of the incident, he said to Police Officers Hoxha, Guerrero, and Vargas, “So no one’s gonna give me a name or badge number?” At that time, the officers were all in front of him and at most two feet away. In response, all three officers said nothing and walked away.

All the officers’ BWC videos show that § 87(2)(b) never asks Police Officers Hoxha and Guerrero for their shield numbers, nor does she ask Police Officer Guerrero for his name at any point. Police Officer Hoxha’s BWC shows, at 03:05 into the video, that while on the phone with IAB, § 87(2)(b)



asks only for Police Officer Hoxha's name, and Police Officer Hoxha gives it to her (Board Review #03). Police Officer Hoxha testified that she told § 87(2)(b) her name after she asked for it, but she could not remember whether § 87(2)(b) asked her for her shield number. She could not remember whether § 87(2)(b) asked any officer for their name or shield number. Police Officers Guerrero and Vargas could not remember whether either occupant asked any officer for their name or shield number. Police Officer Alvino could not remember whether § 87(2)(b) asked for this information and was unaware of any officer's interaction with § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)

**Allegation (Y) Abuse of Authority: Police Officer Merita Hoxha failed to provide § 87(2)(b) with a business card.**

**Allegation (Z) Abuse of Authority: Police Officer Merita Hoxha failed to provide § 87(2)(b) with a business card.**

**Allegation (AA) Abuse of Authority: Police Officer Emmanuel Guerrero failed to provide § 87(2)(b) with a business card.**

**Allegation (AB) Abuse of Authority: Police Officer Emmanuel Guerrero failed to provide § 87(2)(b) with a business card.**

**Allegation (AC) Abuse of Authority: Police Officer Dennis Vargas failed to provide § 87(2)(b) with a business card.**

**Allegation (AD) Abuse of Authority: Police Officer Dennis Vargas failed to provide § 87(2)(b) with a business card.**

**Allegation (AE) Abuse of Authority: Police Officer Anthony Alvino failed to provide § 87(2)(b) with a business card.**

**Allegation (AF) Abuse of Authority: Police Officer Anthony Alvino failed to provide § 87(2)(b) with a business card.**

Both § 87(2)(b) and § 87(2)(b) testified that they did not receive business cards from any officer.

Police Officer Alvino testified that he offered his business card to § 87(2)(b) and § 87(2)(b) at some point, but he could not remember how either of them responded nor whether either of them accepted the offer. Police Officer Guerrero did not remember hearing either § 87(2)(b) or § 87(2)(b) ask for a card, and his understanding that he was only expected to give either of them a business card if they had asked for one; thus, he did not offer them one. Police Officer Hoxha believed she would be expected to give the occupants a business card in this situation, though she also believed it was not completely safe to offer a card because of what was happening during the incident. She could not remember whether any officer offered their cards to either occupant.

BWC footage does not show Police Officer Hoxha or Guerrero offering either § 87(2)(b) or § 87(2)(b) a business card. At 07:49 in his BWC footage, Police Officer Vargas says, "You guys want a

card?,” after he begins walking away from the driver side of § 87(2)(b)’s vehicle (Board Review #02). At this time in the incident, § 87(2)(b) and § 87(2)(b) were getting into their vehicle, and thus Police Officer Vargas was several feet away from them and walking away with his back turned to them. Similarly, Police Officer Alvino says, “Would you guys like a card?,” at 08:03 in his footage, while he is walking away from § 87(2)(b) and as she is entering her vehicle (Board Review #01).

According to NYC Administrative Code 14-174, officers must offer a business card to any individual with which they conduct a law enforcement activity, such as a stop, at the conclusion of any such activity that does not result in an arrest or summons (Board Review #13).

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) (Board Review #14) and § 87(2)(b) (Board Review #15) have been parties.
- Police Officer Merita Hoxha has been a member-of-service for seven years and has been a subject in eight CCRB complaints and 21 allegations, of which five were substantiated in three cases:
  - 201806458 involved substantiated allegations of question, frisk, and search of person. The Board recommended command discipline B and the NYPD imposed formalized training.
  - 201903423 involved a substantiated allegation of failure to provide RTKA card. The Board recommended command discipline A and the NYPD imposed command discipline A.
  - 201904508 involved a substantiated allegation of failure to provide RTKA card. The Board recommended command discipline A.
  - § 87(2)(g)
- Police Officer Emmanuel Guerrero has been a member-of-service for nine years and has been a subject in two CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Lewellyn Alvarez has been a member-of-service for 10 years and has been a subject in two CCRB complaints and five allegations, of which two were substantiated in one case:
  - 201604373 involved substantiated allegations of discourtesy-word and threat of force. The Board recommended instructions and the NYPD imposed instructions.
  - § 87(2)(g)
- Police Officer Anthony Alvino has been a member-of-service for five years and has been a subject in three CCRB complaints and six allegations, none of which were substantiated.

§ 87(2)(g)

- Police Officer Dennis Vargas has been a member-of-service for seven years and has been a subject in nine CCRB complaints and 17 allegations, of which two were substantiated in two cases:
  - 201506210 involved a substantiated allegation of premises entered and/or searched. The Board recommended APU Guilty and the NYPD imposed three vacation days forfeited.
  - 201904508 involved a substantiated allegation of failure to provide RTKA card. The Board recommended command-level instructions.

### **Mediation, Civil, and Criminal Histories**

- § 87(2)(b) accepted mediation for this complaint, but § 87(2)(b) rejected it, so the case was investigated.
- According to the NYC Office of the Comptroller, as of May 19, 2021, there is no record of any Notices of Claim being filed regarding this complaint (Board Review #16).
- § 87(2)(b)
- § 87(2)(b)

Squad: \_\_\_\_7\_\_\_\_

Investigator:	____Esme Trontz____ Signature	____Inv. Esme Trontz____ Print Title & Name	____07/28/2021____ Date
Squad Leader:	____ Signature	____Manager Vanessa Rosen____ Print Title & Name	____July 29, 2021____ Date
Reviewer:	____ Signature	____ Print Title & Name	____ Date